

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-1195V

CAROLYN HALL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 11, 2023

Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for Petitioner.

Julia Marter Collison, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On April 13, 2021, Carolyn Hall filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury related to vaccine administration within the time frame of the Table definition for a SIRVA injury, or which, in the alternative, was vaccine-caused, following the receipt of an influenza vaccine on October 14, 2019. Petition, ECF No. 1. On January 31, 2023, I issued a decision awarding compensation to Petitioner based on the parties’ stipulation. ECF No. 35.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioner has now filed a motion for attorney's fees and costs, requesting an award of \$16,306.35 (representing \$15,984.20 in attorney's fees and \$322.15 in attorney's costs) incurred by Petitioner and Petitioner's current attorney, Conway, Homer, P.C. Additionally, Petitioner is requesting an award of \$4,500.72 (representing \$3,888.00 in attorney's fees and \$612.72 in attorney's costs) incurred by Petitioner and Petitioner's former attorney, Berkowitz and Hanna, LLC. Petitioner's Application for Attorney's Fees and Costs ("Motion") filed July 27, 2023, ECF No. 39 at 1-2. In accordance with General Order No. 9, Petitioner filed a signed statement indicating that Petitioner incurred no out-of-pocket expenses. ECF No. 40.

Respondent reacted to the motion on August 1, 2023, indicating that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring resolution of the amount to be awarded to my discretion. Respondent's Response to Motion at 2-3, ECF No. 41. Petitioner did not file a reply thereafter.

I have reviewed the billing records submitted with Petitioner's request. In my experience, the request appears reasonable, and I find no cause to reduce the requested hours or rates. Respondent offered no specific objection to the rates or amounts sought.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). I hereby GRANT Petitioner's Motion for attorney's fees and costs. I award a total of \$20,807.07³ as follows:

- A lump sum of **\$16,306.35**, representing reimbursement for fees and costs, in the form of a check jointly payable to Petitioner and Petitioner's counsel of record, Conway, Homer, P.C.; and
- A lump sum of **\$4,500.72**, representing reimbursement for fees and costs in the form of a check jointly payable to Petitioner and Petitioner's former counsel, Berkowitz and Hanna, LLC.

In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this Decision.⁴

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally Beck v. Sec'y of Health & Human Servs., 924 F.2d 1029 (Fed. Cir. 1991).

⁴ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran

Chief Special Master